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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

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CC Docket No. 95-155

Toll Free Access Codes

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COMMENTS OF MFS COMMUNICATIONS COMPANY, INC.

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Summary

MFS Communications Company, Inc. ("MFS") strongly supports the Commission's decision to assume a leadership role in promoting the continued viability of the toll free number system. While MFS agrees with the Commission's decision to intervene in the toll free number allocation process during the troubled transition to the 888 toll free code, it applauds the Commission in its continued determination to allow participants in the toll free industry to continue to resolve toll free numbering issues in the future.

In its efforts to increase the efficiency of the toll free system, the Commission has proposed the use of affirmative subscriber request to assign toll free numbers. MFS supports the use of affirmative subscriber requests as well as proposals to retain such information for two years, assuming that service providers remain able to maintain a controlled pool of reserved but inactive numbers in the SMS database for exclusive use by its customers. MFS does not support the imposition of an escrow requirement, as such a requirement would not guarantee efficient allocation of numbering resources and is certain to impact negatively on the ability of smaller service providers to compete effectively in the toll free market. MFS also believes there is little to be gained in changing the current rules regarding time lags. MFS supports maintenance of the current guidelines in situations of normal (non-conservation) operation. Finally, MFS urges the Commission to continue only to encourage the use of PIN technology in conjunction with toll free service and allow the marketplace to dictate the actual deployment of such dual technology services.

With regard to the mechanics of implementing new toll free codes. MFS agrees with the Commission that the current reservation system favors larger service providers to the detriment of smaller providers. As such, MFS urges the adoption of a new reservation system that would place high-demand vanity numbers in "special availability" pool and released in a completely random fashion. Additionally, MFS supports additional reporting requirements to track the usage of toll free numbers to the extent that they do not impose additional requirements on service providers.

The Commission also seeks comment on warehousing of toll free numbers, number assignments based on industrial classifications, and the future administration of the SMS Database. MFS does not favor a significantly lower cap on the number of reserved toll free numbers that can be withdrawn by a RespOrg. Setting a cap that is too low increases the risk for small companies and could result in their loss of significant business to larger competitors. Nor does MFS support the use of number assignments based on industrial classifications. Such a system would contain too many opportunities for confusion and fraud. Finally, MFS recommends that the SMS Database functions be performed by an independent third party.

MFS once again commends the Commission for its leadership and looks forward to timely resolution of these issues so the industry can move ahead to the challenges of the future.

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COMMENTS OF MFS COMMUNICATIONS COMPANY, INC.

MFS Communications Company, Inc. ("MFS"), a diversified telecommunications company with subsidiaries providing numerous telecommunications services including interexchange toll service and local exchange services, by its undersigned counsel, hereby submits its comments concerning the Notice of Proposed Rulemaking issued by the Federal Communications Commission ("Commission") in this docket, FCC 95-155 (released October 5, 1995) (the "*NPRM*"). MFS strongly supports the Commission's initiative to develop a framework for the efficient and orderly allocation and use of limited toll free numbering resources. While MFS agrees with the Commission's decision to intervene in the toll free number allocation process during the troubled transition to the 888 toll free code, it applauds the Commission in its continued determination to allow participants in the toll free industry to continue to resolve toll free numbering issues in the future.

In these comments, MFS will address the following issues raised by the *NPRM*: (i) increasing efficiency in the toll free system; (ii) the mechanics of opening new toll free codes; (iii)

the warehousing of toll free numbers; (iv) the use of vanity numbers; and (v) the administration of the SMS/800 database system.

I. INCREASING THE EFFICIENCY OF THE TOLL FREE SYSTEM

A. Affirmative Requests for Toll Free Numbers

The Commission has developed a number of proposals designed to increase the efficiency of the toll free number system. These include requiring a RespOrg or 800 service provider to have an affirmative request from a subscriber before assigning a toll free number to the subscriber as well as maintaining records of all affirmative subscriber requests for a period of two years. MFS supports the use of affirmative subscriber requests as well as proposals to retain such information for two years, assuming that service providers remain able to maintain a pool of reserved but inactive numbers in the SMS database for exclusive use by its customers.

MFS company policy requires that all subscribers to its toll free services sign a document indicating that MFS is appointed to represent the subscriber's interests in any SMS Database activity as a Responsible Organization ("RespOrg"). Under the SMS Guidelines, this includes reserving toll free numbers in the SMS Database in preparation for activating a number on behalf of a subscriber, building a subscriber record in the SMS Database, and either activating a routing record for each subscriber's toll free number or acquiring such records from a former RespOrg if the toll free number in question is already activated. With this documentation, MFS already fulfills many of the goals of the Commission's proposal to require an affirmative request from a subscriber before assigning a toll free number.

MFS also supports the Commission's proposed two year retention period for such subscriber records. MFS feels that such a time period is reasonable in light of the various "status"

categories a toll free number can assume. Long term retention of documentation will offer valuable assistance to the industry, such as aiding in the verification of legitimate number transfers between RespOrgs.

However, MFS stresses that it cannot properly provide service to its customers without access to a quantity of reserved toll free numbers in the SMS/800 Database. Access to a pool of reserved but inactive toll free numbers allows MFS to provide these numbers in a timely and efficient manner to its new subscribers. MFS is opposed to any proposal that limits its ability to maintain this vital reserve of toll free numbers. This controlled pre-reservation of toll free numbers is an essential element of the toll free service provided by MFS and does not constitute warehousing.

B. Escrow Requirement

In an effort to encourage a more efficient use of toll free numbers, the Commission is seeking comment on the feasibility of requiring a one time deposit into an escrow account for each toll free number held in reserved status. The Commission envisions a deposit that would be paid by service providers and third party agents who obtain toll free numbers for distribution. MFS believes that such a deposit would have to be of significant amount in order to have the intended effect of creating a more efficient allocation of numbering resources and avoiding the practice of warehousing. Larger service providers (those with the greatest capability for the warehousing of toll free numbers) also possess the financial resources to absorb escrow fees. Smaller service providers rarely maintain large pools of reserve numbers, and the imposition of an escrow fee would serve as another obstacle to their ability to effectively compete in the toll free market.

If the Commission's ultimate goal is avoidance of warehousing or hoarding of toll free numbers, MFS believes that the Commission should focus its limited resources on the enforcement of narrow guidelines crafted to limit such practices. Institution of an escrow requirement does not guarantee efficient allocation and is certain to impact negatively on the ability of smaller service providers to compete effectively in the toll free market. If the Commission does impose an escrow requirement, MFS supports the adoption of a threshold approach that would insulate smaller service providers from anti-competitive effects. Alternatively, the level of the escrow requirement could be graduated by the size of the service provider.

C. Time Lag

The Commission seeks comments on several items related to the reduction of the interval between the reservation of a number and conversion to a working status. The first is the proposal to reduce the amount of time a toll free number can remain in reserved status from 60 days to 45 or 30 days. The second is a proposal to reduce the amount of time a toll free number can be assigned, but not working, from twelve months to four months.

Both of these proposals concern procedures currently found in the SMS Guidelines for toll free numbers. MFS believes that the established time frames of 60 days for reservation of numbers and up to twelve months for the assignment of numbers are reasonable intervals. Since the current SMS Database was activated, there have been no negative consequences associated with these time intervals. It is only during the recent and troubled transition period to the 888 toll free code that the Commission found it necessary to reduce these time intervals. MFS believes that the addition of new toll free codes will limit the need for a reduction in these time intervals. The current 60 day reservation window better ensures that RespOrgs will have sufficient time to

install the necessary equipment for dedicated access customers who wish to utilize new toll free numbers for new endeavors. A shortened interval of 45 days adds additional time pressures while offering no tangible benefits. When MFS offers a customer dedicated access to toll free service, its operating procedure under the current 60 day reservation period includes a built in time reserve as hedge against the many technical or regulatory variables that can delay installation of service. MFS is concerned that a time interval less than 60 days will result in additional SMS Database activity and increased possibility of customers losing reserved numbers, thereby eroding customer confidence in their chosen service provider. This raises additional concerns for smaller service providers. If the 60 day reservation period is reduced, larger service providers, with their greater resources, will be better able adjust to a tighter time frame. Once again, smaller service providers will be weakened vis-a-vis their larger competitors.

MFS also supports a continuation of the normal twelve month period in which a number may be assigned but not working. The current SMS guidelines were functioning quite well until the recent transition crises precipitated the need for strict conservation rules. MFS is confident that the Commission will succeed in developing a streamlined process for the introduction of new toll free codes, thereby eliminating future transition crisis. Therefore, MFS would like to see the current guidelines maintained in normal operating (non-conservation) situations.

The Commission is seeking additional comment on time lag concerns relating to the "aging" of toll free numbers. MFS stresses that a certain amount of lag time is necessary to prevent excessive misdialing, unreasonable expense to the subscriber, and confusion to the toll free caller. The current amount of time allocated to this process is six months. As stated above, MFS believes the need to restrict numbering resources should decline as the new 888 toll free

numbers become available. There is currently no need to reduce this six month aging period and risk consumer confusion and additional subscriber expense.

The Commission also proposes to reduce the amount of time toll free numbers can be suspended but not activated from twelve months to four months. MFS notes that the quantity of toll free numbers in this status category is small. Therefore, there is little to be gained in changing the current rules. MFS would like to see the current guidelines maintained in situations of normal (non-conservation) operation.

D. Personal Identification Numbers

The Commission also is seeking comment on the use of personal identification numbers ("PINs") in conjunction with the use of some toll free numbers. As a provider of toll free service, MFS understands the potential benefits that PINs may offer for optimization of the use of toll free numbering resources. MFS also applauds the Commission's deliberate approach to encourage the implementation of this technology. PIN technology offers a potentially limitless supply of toll free codes. However, the current state of PIN technology does not permit portability in the same manner as toll free numbers without PINs and it may be incompatible with some toll free services. Additionally, the use of PIN technology raises competitive concerns -- companies whose customers must dial a toll free number plus a PIN may be at a competitive disadvantage compared to companies whose customers must only dial a toll free number. MFS believes that the Commission should continue only to encourage the development of this technology and allow the marketplace to dictate its deployment.

Moreover, some toll free service providers are currently using common access numbers in conjunction with PIN technology for telecommunications services such as calling card and

paging services. These numbers have been established by toll free providers for the purpose of providing their customers with additional service options. The industry has demonstrated its ability to enhance the capability of a single toll free number. As a provider of such enhanced services, MFS would encourage the Commission to maintain the status quo until PIN technology is refined further.

II. MECHANICS OF OPENING NEW TOLL FREE CODES

A. Reservation of New Toll Free Codes

The Commission is seeking comment on the current toll free reservation and assignment process, under which toll free numbers are reserved on a first come, first served basis. MFS agrees with the Commission that the current system favors large RespOrgs which are able to reserve mass quantities of toll free numbers in a short period of time. Smaller, less technologically sophisticated RespOrgs are placed at a competitive disadvantage, since they lack the capacity to reserve numbers in rapid order. The advantage enjoyed by larger RespOrgs lies particularly in their ability to obtain strategic ("vanity") toll free numbers.

MFS has observed this tendency first hand in the case of specific NXX availability dates, such as the opening of the 555 prefix (also used as an example of a high demand group of numbers by the Commission). With the use of multiple terminals (so-called "mechanized access") one large RespOrg was able to reserve a large percentage of the available numbers in the new prefix before other non-mechanized entities could commence their own reservations. The current reservation system enables a few larger members of the industry to acquire the majority of strategic numbers while other competitors are left behind.

MFS therefore urges the Commission to require that certain "high demand" numbers in the toll free database, such as 888-NXX-0000, 888-NXX-N000, or 888-NXX-NN00, be placed into a "special availability" category and released to the available number pool on a completely random basis. Such an approach would guarantee that the availability of strategic vanity numbers would be determined only by the timing of a request for one of the number styles discussed above. This random release system could include certain time limits to ensure a uniform distribution over a given time period.

MFS is opposed to any proposal that would allow a service provider or Database Services Management, Inc. to act as an arbitrator or auctioneer in the process of supplying specific toll free numbers to customers. Such a development would inhibit the competition and lead to excessive infighting in an industry that is usually characterized by a high degree of common purpose.

B. Tracking Usage of Toll Free Numbers

The Commission seeks comment on whether additional reporting requirements should be undertaken by the Administrator of the SMS/800 Database. MFS supports these additional reporting requirements to the extent that they do not impose additional requirements on service providers. MFS notes that the statistics necessary for predicting the exhaustion of the toll free number pool are currently available on a regular basis. A monthly report should provide a clear indicator as to the necessity of commencing the transition process to another toll free code.

III. WAREHOUSING OF TOLL FREE NUMBERS

The Commission is seeking comment on whether it should impose a permanent cap, such as three percent of the RespOrg's working numbers, on the number of reserved numbers that can be withdrawn by any one RespOrg. The current conservation number of three percent is offered

as a possible permanent cap for RespOrgs. The Commission is also seeking comment on what penalty should be imposed on a RespOrg that is found to be warehousing toll free numbers.

MFS does not favor a cap as low as the three percent conservation level. A cap at this level could limit the ability of new RespOrgs to maintain steady rates of growth. Indeed, a new RespOrg often experiences higher growth rates than its established competition, thereby requiring a greater pro-rata share of reserved toll free numbers to meet customer demands. For example, early in its corporate development, MFS received a customer request that required it to provide reserved toll free numbers in amounts surpassing the standard 15 percent cap. In this case, this large request was filled by utilizing multiple activation dates. Such a remedy would not have been possible under a three percent cap. Setting a cap that is too low increases the risk for small companies and could result in their loss of significant business to larger competitors.

Penalties for violation of warehousing provisions must be based on clear definitions and must be appropriate for the degree of the particular offense. Temporary denial of the ability to activate new toll free numbers from the SMS Database for a limited period of time is a reasonable penalty. The length of such penalties could be increased with each occurrence. Additionally, now that the SMS Database is capable of monitoring the number of toll free number reservations made each week, a system-based means of monitoring the use of toll free numbers already exists. If this system is maintained, warehousing should be more difficult. This system might abrogate the need for a formal penalty structure.

IV. NUMBER ASSIGNMENTS BASED ON INDUSTRIAL CLASSIFICATIONS

MFS does not support the proposal that would require a subscriber to report an SIC or other numeric code to its RespOrg. Such a system is unappealing because it would force service

providers to become policing entities, held responsible for ensuring that their subscribers properly identified their codes. This duty becomes onerous, as there is no ultimate authority monitoring industrial classification. Dishonest subscribers could easily circumvent the underlying goals of such a system.

Another problem with industrial classification is the fact that modern corporations can often be classified under multiple codes. Indeed, many competitors may not share the same classification. Likewise, identical alphabetic vanity numbers may be appealing to entirely different industries. For example, if the number (888) CAPE COD is already in use, should the Massachusetts Office of Travel and Tourism (travel) be prevented from using the number (888) THE CAPE, which utilizes the last seven digits as the number (800) THE CARD now in use by American Express Travel Card Services (credit services)? From a service provider's viewpoint, MFS finds no benefit in trying to impose such a system on its customers.

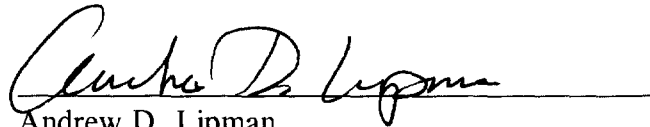
V. ADMINISTRATION OF THE SMS DATABASE

The 800 number database is administered by Database Services Management, Inc. ("DSMI"), a wholly-owned subsidiary of Bellcore which, in turn, is wholly-owned by the seven RBOCs. The Commission is seeking comment on whether DSMI should continue the toll free databases or whether another entity should administer the system. MFS recommends that the SMS Database functions be performed by an independent third party. Although the RBOCs have expressed their intention to divest themselves of Bellcore, it is prudent to delegate SMS Database responsibilities to the new North American Numbering Plan Administrator to be selected by the North American Numbering Council.

VI. CONCLUSION

MFS hereby respectfully submits these comments for consideration by the Commission in its toll free number proceeding. MFS commends the Commission for its leadership and looks forward to timely resolution of these issues so the industry can move ahead to the challenges of the future.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew D. Lipman", is written over a horizontal line.

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